HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO :21903 of 2006

Dated 20th July, 2007

Between

Krovvidi Hemali, minor, rep. By her father
And Natural guardian K.V.Seshagiri rao

…Petitioner

and

The Regional Passport Officer, Passport Office,
Secunderabad and anr.

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 21903 of 2006

ORDER:

In this Writ Petition, the petitioner seeks Writ of Mandamus to declare the action of the respondents in not issuing passport with correct date of birth, pursuant to her application dated 21-12-2005, as illegal and arbitrary.

The petitioner was born on 10-10-1990 in the hospital, by name, Karan Hospital, at Hyderabad. Basing on the information furnished by the said hospital, the date of birth of the petitioner was registered under the Registration of Births and Deaths Act, 1969 and accordingly a certificate was also issued by the competent authority showing her date of birth as 10-10-1990. The petitioner initially joined in the pre primary school, namely, A.M.Kewal Ramani Premier High School, at Mumbai. In the School Leaving Certificate issued by the said school, her date of birth was mentioned as 10-10-1990. Subsequently, the

petitioner joined in another school, namely, Vani High School, at Hyderabad. Thereafter, she was shifted to Jubilee Hills Public School, Hyderabad, and again to St.Ann's School. She appeared for the Secondary School Certificate (SSC) Examinations from St.Ann's School and passed the said examination. In the Memorandum of Marks issued by the Board of Secondary School Education, her date of birth was mentioned as 10-10-1990. Though, initially, at the time of joining the school and also leaving the school, her date of birth was mentioned as 10-10-1990, but however, at the time of admission in Vani School, it is stated that, there was some mistake in entering her date of birth and it was mentioned as 19-8-1990 and based on the certificate issued by the said school, on the application of the petitioner, passport was issued. But, subsequently, even in the said school, on the application of the petitioner, on realizing that there was a mistake in entering her date of birth, the same was rectified.

The petitioner submitted an application on 21-12-2005 seeking issuance of fresh passport by entering correct date of birth as 10-10-1990. But, however, the respondents have issued an endorsement on the application of the petitioner to get declaration from Civil Court. Hence the petitioner has come up with this Writ Petition.

It is the case of the petitioner that it is a clerical and arithmetical error while making entry in the records of Vani High School, at Hyderabad, where the petitioner had studied for some time. But, however, the said entries were rectified by correcting her date of birth as 10-10-1990, which was carried forward when the petitioner had taken admission in Jubilee Hills Public School and later St. Ann's School. Even in the Memorandum of Marks given by the Board of Secondary School Education, Andhra Pradesh, her correct date of birth is mentioned as 10-10-1990. It is the case of the petitioner that as much as her claim for issuance of passport with correct date of birth is supported by documentary evidence, namely, Secondary School Certificate issued by the Secondary School Education, AP, and

certificate issued by the competent authority under the Registration of Births and Deaths Act, 1969, the respondents ought to have entertained her application for issuance of fresh passport on surrendering old passport by mentioning correct date of birth.

Counter affidavit is filed on behalf of the respondents, where in it is stated that as per the instructions in Circular No.VI/401/2/5/2001, dated 18-4-2001, the claim of the petitioner falls under Clause (c), as such, the petitioner is required to get declaration from Civil Court. But, however, it is submitted by Sri A.Rajasekhar Reddy, Assistant Solicitor General of India, who filed counter affidavit, that there are instructions not to represent in the matters relating to correction of date of birth. Though counter affidavit is filed, he had not advanced arguments on behalf of the respondents.

I have perused the copy of the circular dated 18-4-2001. The instructions in the said circular are in the shape of guidelines. The claim of the petitioner cannot be rejected mechanically based on the said circular alone, when her claim is supported by documentary evidence, namely, Secondary School Certificate, as also the Certificate issued by the competent authority under the Registration of Births and Deaths Act, 1969. The respondents should have considered her claim with reference to said documentary evidence for issuance of fresh passport by mentioning correct date of birth. In the light of the claim of the petitioner, it is to be seen, her date of birth was wrongly entered due to clerical error in one of the schools where she studied for some time. Further, it is to be seen, that the school, where the petitioner studied SSC, also discloses in its records the correct date of birth of the petitioner as 10-10-1990. In that view of the matter, it is purely a clerical error, which has to be rectified by the respondents without insisting for declaration from Civil Court. Accordingly, the endorsement of the first respondent-Regional Passport Officer, dated 09-06-2006 insisting the petitioner to get declaration from Civil Court for rectification of date of birth is quashed. The respondents shall

consider the application of the petitioner for issuance of fresh passport with correct date of birth as 10-10-1990 with reference to documentary evidence, namely, Secondary School Certificate and also Birth Certificate issued by the Municipal Corporation of Hyderabad, on surrendering old passport by the petitioner. The petitioner shall make fresh representation enclosing a copy of this order and old passport, and, on such representation, the respondents shall consider and take necessary steps within six weeks from the date of receipt of such representation.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 20-07-2007.
CC in three days
(BO) Msnr.